

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**JOSEPH TUHOLSKI, as Independent Administrator  
of the ESTATE OF DENNIS D. TUHOLSKI and  
DENNIS L. TUHOLSKI,**

**Plaintiffs,**

**v.**

**Case No. 13-CV-1349**

**DEHAVAN RESCUE SQUAD, INC.,**

**Defendant and Third-Party Plaintiff,**

**and**

**PHILIPS MEDICAL SYSTEMS, INC., et al.,**

**Defendants,**

**v.**

**PHILIPS MEDICAL SYSTEMS, et al.,**

**Third-Party Defendants.**

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**ORDER**

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On May 2, 2014, the plaintiffs filed their fourth amended complaint (the “complaint”) in this action, alleging eleven causes of action against multiple defendants. (Docket # 75.) Two of the defendants, Philips Electronics North America Corporation (“Philips”) and Delavan Rescue Squad (“Delavan”), have filed motions to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). (Docket # 82 and Docket # 98.) Both Delavan and Philips move to dismiss count eleven of the complaint,

which alleges punitive damages. Philips also moves to dismiss count nine of the complaint, which alleges negligent misrepresentation. To date, the plaintiffs have not responded to the defendants' motions. *See* Civil Local Rule 7(b). Pursuant to Civil Local Rule 7(d), the failure to file a memorandum in opposition to a motion is sufficient cause for the Court to grant the motion. However, the Court will direct the plaintiffs to show good cause for their failure to timely oppose the defendants' motions.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the plaintiffs shall have ten (10) days from the date of this order to show good cause for their failure to timely oppose the defendants' motions to dismiss. If the plaintiffs fail to show good cause in accordance with this Order, the Court will dismiss Counts Nine and Eleven of the Fourth Amended Complaint with prejudice.

Dated at Milwaukee, Wisconsin this 19<sup>th</sup> day of August, 2014.

BY THE COURT

*s/Nancy Joseph*  
NANCY JOSEPH  
United States Magistrate Judge